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## House OKs Phase II payout bill

### Most money for program would come from bonds

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By [James Mayse](#)  
Messenger-Inquirer

FRANKFORT -- The Kentucky House passed a bill Friday that would compensate tobacco growers and quota owners for lost tobacco payments by taking money from the state Agricultural Development Fund.

House members voted overwhelmingly to pass House Bill 132, which would take \$27 million from state ag development funds to compensate farmers for lost Phase II payments. Phase II payments, which were part of the settlement agreement between tobacco companies and states, were created as a way to compensate tobacco growers and quota owners for declining tobacco incomes.

Phase II payments were to be discontinued as part of the tobacco quota buyout that was signed into law last year. But the buyout

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language did not specify exactly when Phase II would end, prompting tobacco companies to argue the program was discontinued the moment the buyout was signed into law.

A North Carolina judge agreed with tobacco companies, and farmers did not receive Phase II payments in December, even though they had been notified in September that they would.

The bill passed Friday would pay Kentucky farmers \$114 million. Most of the money would come from 20-year bonds. The debt service on the bonds would be paid from ag development funds.

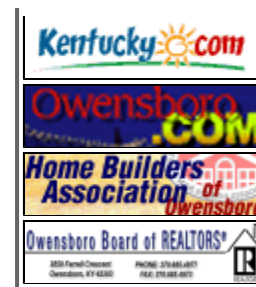
Ag development funds -- or Phase I funds -- are distributed to counties to fund new farm enterprises. The state also has some Phase I funds for farm diversification. The money for the Phase II bill would come from the state's diversification funds.

Rep. Rick Rand, a Bedford Democrat, said tobacco farmers were depending on their annual Phase II payments. Taking money from Phase I tobacco dollars to make Phase II payments would not burden the state's general fund, Rand said.

"It takes money that was designated for tobacco and moves it from one pot to another," Rand said. The plan, Rand said, would still leave about \$5 million in state Phase I funds for agricultural diversification. Rand said legislators were required to act on the Phase II payments.

"We cannot afford to leave this session without addressing the issue," Rand said.

The bill received wide bipartisan support on the House floor. Rep. Lonnie Napier, a Lancaster Republican, said state tobacco farmers and quota owners would lose \$124 million if legislators did not act. The bill provides \$114 million in compensation.



"The farmers are losing hope," Napier said. " ... We're going to give the farmers a fair shake."

Across the state, 163,000 residents receive annual Phase II payments. Of that number, 87,000 receive less than \$250 annually, while 19 residents receive \$50,000. At a committee hearing on the bill Wednesday, it was reported that 127 state residents who receive Phase II payment receive more than \$25,000 annually.

After Wednesday's hearing, Keith Rogers, executive director of the Governor's Office of Agricultural Policy -- which oversees the Agricultural Development Fund -- said the state does have an obligation to compensate residents for lost Phase II payments. Kentucky law says the state will compensate people who receive the funds if Phase II payments fall below \$114 million.

"The governor's (position) is we have a moral obligation, even if we don't have a legal obligation," Rogers said Wednesday. Rogers said both Phase II payments and farm diversification that comes from state ag development dollars are important.

"We've got to find a way to provide those Phase II payments, but (Kentucky's ag diversification program) is the envy of every tobacco-producing state," Rogers said.

No House members Friday voted against the bill, although eight members declined to vote. Rep. Brent Yonts, a Greenville Democrat, said he opted not to vote on the bill because he had been urged not to Thursday by a delegation from his district.

"In theory, I support the issue, because there may be no other way of passing" compensation of Phase II recipients, Yonts said. " ... Our local farmers said, 'Don't hit the Phase I program. ... If you slow that down, you'll hurt us even more.' "

Rep. Tommy Thompson, a Philpot Democrat, also did not vote on

the bill. Thompson said the bill was "the only viable solution to a problem that faces our tobacco farmers today" but said he was also urged to not vote for the bill.

"In deference to the Farm Bureau members in our county who came up and asked us not to vote for that, we took a neutral position," Thompson said of himself and Yonts.

There has been some discussion of using proceeds from the proposed cigarette tax increase to make Phase II payments. Thompson said legislators could not wait on another method to surface to compensate farmers for lost Phase II dollars.

"It would be horrible to assume there is another vehicle out there, not vote on anything, and have that vehicle not materialize," Thompson said.

The issue is being appealed to the North Carolina Supreme Court. The state could recover the money it pays out for Phase II if the court rules that tobacco companies are liable to make the 2004 payments.

House members said they hope the bipartisan vote will encourage Senate members to take up the issue. At a news conference Friday afternoon, Senate President David Williams said he hopes tobacco companies will make their 2004 Phase II payment.

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